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OFFICE OF PETITIONS

In re Application of
Timothy A. M. Chuter et al.
Application No. 10/090,492
Filed: March 4, 2002
Attorney Docket No. ENDOV-55673
Title: ENDOVASCULAR GRAFT DEVICE
AND METHODS FOR ATTACHING
COMPONENTS THEREOF

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(f)

This is a decision on the petition filed on July 8, 2003, pursuant to 37 C.F.R. § 1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication¹;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. § 122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign application on February 24, 2003. However, the United States Patent and Trademark

¹ See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

On May 29, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of a foreign application that requires publication of applications 18 months after filing.

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

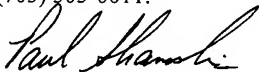
Petitioner has submitted the notification of a foreign filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanowski at (703) 305-0011.



Paul Shanowski
Attorney
Office of Petitions
United States Patent and Trademark Office